

MINUTES OF THE BOARD OF APPEALS MEETING
8-31-16

The meeting of the Slinger Board of Appeals was called to order by Chairman Wolf at 300 Slinger Road, Slinger Wisconsin on Wednesday, August 31, 2016 at 5:30 p.m.

I. Roll Call & Notice of Meeting:	<u>Present</u>	<u>Absent</u>
Craig Wolf	x	
Rick Knipfer	x	
Chris Leis	x	
Eugene Mueller		x (excused)
Dave Malecha	x	
Ken Leeson	x	
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Also Present: Tammy Tennies, Clerk
Greg Darga, Village Building Inspector/Zoning Administrator

Clerk Tennies took the roll call and stated that all posting and publication requirements had been met. Clerk Tennies read the Zoning Board Announcement of Proceedings and the public notice.

Clerk Tennies administered the Oath of Witness to all who wished to speak before the Board at this time. Sworn in were Michael Navin of 2992 Willowcreek Rd. Colgate, WI 53017, Jeanine and Jay Baudhuin of 738 Timberline Trail, Hartford, WI 53027, Larry and Mercedes Loomans of 631 E Washington St. Slinger, WI 53086 and Zoning Administrator, Greg Darga, 300 Slinger Rd. Slinger, WI 53086.

II. Public Hearing:

Michael Navin d/b/a Majestic Renovations LLC is requesting a variance on behalf of property owners Janine and Jay Baudhuin to allow construction of a new home on a vacant lot located at 1870 Ravine Ct (a/k/a Lot 25) in Sherman Heights Subdivision. The requested variance is related to the requirement on the subject lot for the street yard setback of the new home to be reduced from 96ft to 68ft. from the right-of-way line of Ravine Ct. requiring a variance of 28ft. The reduced setback is claimed to be needed to accommodate steep slopes on the subject lot.

A. Petition for Appeal

Chairman Wolf announced that Jay & Janine Baudhuin are petitioning for a variance to allow construction of a new home on a vacant lot located at 1870 Ravine Ct. a/k/a Lot 25 in Sherman Heights Subdivision. It was noted that the existing setback from the right-of-way line of Ravine Ct. is 96ft. and the Baudhuin's are requesting a setback of 68ft. Clerk Tennies informed the Board that a letter had been received from a J. Gehl in regards to the requested variance by the Baudhuins and stated:

To whom it may concern,

Concerning the request for variance on lot 25 in the Sherman Heights Subdivision.

As a property owner in Sherman Heights, and as a property owner who is experienced with the

challenges presented by lot 24 and lot 25, I can relate to the request of variance. These two lots do present challenges in home, home mechanicals (water and septic) and landscape design.

The request for variance and the survey presented do not demonstrate how, if the variance is granted, the proposed home will affect the presentation of Ravine Ct. and the existing homes on the road end.

A few thoughts: 1) due to the shape of the lot, allowing a forward variance will narrow the side exposure of the lot significantly. A home design requiring a side entry garage will not allow proper space for a garage entry pad. 2) Allowing the variance and constructing a home of two levels will create an appearance not in continuity of those of the homes also in view on ravine Ct. due to the forward projection of the home. 3) It is also an assumption that the slab level per subdivision design will remain in place creating a further visual concern. 4) Finally, the survey as presented does not show, if the variance is granted, a survey view of the neighboring homes and the effect the variance will create.

I am not opposed to the variance, I have no desire to stand in the way of a person's dream, I only request that the board consider the consequences and how this variance will affect the neighboring homes as well as the view coming into Ravine Ct. I have complete confidence in the Board to make a decision in the best interest of the property owner as well as the Village of Slinger.

Sincerely and with best regards,
J. Gehl

B. Opening Statement of Petitioner

Mr. Jay Baudhuin, owner of the subject property 1870 Ravine Ct., appeared before the Board to discuss the variance he is asking for on his property. He stated that he has a unique lot which has a drop off of 20ft. off the road and an 11ft. drop in the back. Mr. Baudhuin stated that he would like to build the house in a functional area away from the drop offs, with the garage at an angle. He stated that due to the shape of his lot, without the variances, the placement of his house would look odd in comparison to the neighbors as his neighbors are at a 75ft. setback.

C. Zoning Administrator/Staff Review of Petition

Chairman Wolf asked Zoning Administrator Darga to discuss the Village's position on this petition. Zoning Administrator Darga stated the setback for R-1 zoning district is 40ft., but this subdivision is unique and has a setback of 96ft. He noted that the first 50ft. of the subject property is level and then drops off. He recommended the 76ft setback, so the subject property setback would be the same as lot 24 and the setbacks would then be consistent around the cul de sac.

D. Public Comment Period

There were no comments.

E. Closing Statements & Close Hearing

Chairman Wolf asked Mr. & Mrs. Bauhuin and Zoning Administrator Darga to present their closing statements.

Zoning Administrator Darga stated that if the Board approves a variance, then he would recommend including a motion to also reduce the lot width requirement to accommodate the setback variance.

III. Deliberation of Petition:

A. Discussion

Board members discussed a 76ft. setback from the right-of-way line of Ravine Ct., instead of 68ft. that the petitioners are asking for.

Board members discussed the appearance of the homes in the Sherman Heights subdivision and the quality of the homes.

Board members discussed the issue of the lot width, if a variance is granted. They concluded that a 76ft. setback from Ravine Ct. is acceptable and because of a variance the width requirement of the lot will be reduced also.

B. Findings of Fact

Chairman Wolf read the findings of fact that are used to make any determination on variance requests as listed in Village of Slinger Zoning Code Section 12.07.

Chairman Wolf explained that five findings need to be deliberated: Preservation of Intent, Exceptional Circumstances, Economic Hardship and Self-Imposed Hardship, Preservation of Property Rights and Absence of Detriment.

Chairman Wolf stated that in regards to preservation of intent, the variance is consistent with the purpose and intent of the regulations of the district in which the development is located. The variance does not have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

In regards to exceptional circumstances, discussion was held regarding the uniqueness of the lot's shape and the slopes on the property.

Chairman Wolf stated that in regards to exceptional circumstance, there are exceptional conditions applying to the lot that do not apply generally to other properties in the same district and the granting of the variances would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed. Board members agreed that there are exceptional circumstances due to the uniqueness of the lot's shape and the slopes on the property.

Chairman Wolf stated that in regards to economic hardship and self-imposed hardship, there aren't any hardships for consideration in this case. It was noted that the variance is not based solely on economic

gain or loss and that the hardship in this situation is not self-imposed based on the lay of the land.

Chairman Wolf stated that in regards to preservation of property rights, this variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity. It was stated that without a variance, the house would look out of place in relation to the homes on that street and appearance is important in this subdivision.

Chairman Wolf stated that in regards to absence of detriment, the variance does not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of the public interest because moving the house up to 76ft. will enhance the look of the neighborhood.

C. Additional Conditions (if necessary): None

Board members discussed the need to also include in a motion the change in lot width requirement due to a variance being granted. It was noted that by reducing the street yard setback, the side setback will also be reduced based on the shape of the property.

D. Action to Approve, Modify, or Deny the Requested Variances

Motion Leis/Leeson to modify the variance to allow the street yard setback of the new home to be reduced from 96 feet to 76ft. and to include the minimum lot width to be reduced from 150ft. to a number that accommodates the 76ft. setback variance. A roll call vote was taken on this motion with the following results: Yea's: Wolf, Leis, Malecha, Leeson, Knipfer; Nay's: none. Motion passed.

E. Notice of Appeal Rights

It was stated to the Baudhuin's that they could proceed with a building permit yet they were informed that any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. It was noted that such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.

IV. Petition for Appeal

Chairman Wolf announced that property owners Larry and Mercedes Loomans are requesting a variance to allow construction of a 10ft. wide garage addition to their existing home at 631 E. Washington Street. The variance is necessary related to the requirement applicable to the subject lot in Section 3.05 G. of the Zoning Ordinance that requires the minimum side yard setback in the R-2 Residential District be 15 feet. The requested variance of 6.4 feet would allow the proposed garage addition to be setback 8.6 feet from their south side lot line. It was noted that the subject property which is zoned R-2 Single-Family Residential District is approximately 109 ft. in width and approximately 400ft. deep, and is 43, 569 sq. ft. (1.0 acre) in area. The lot contains the Looman's single-family home with a one-car attached garage.

B. Opening Statement of Petitioner

Mr. Larry Loomans, owner of the subject property 631 E. Washington Street, appeared before the Board to discuss the variance he is asking for on his property. Mr. Loomans provided two (2) letters to the

Board, one from the previous home owner and the other from the adjacent neighbor. The letters read as follows:

August 25, 2016

To whom it may concern:

My name is Joan Beine and I live at 641 E, Washington St., Slinger, WI 53086. I am the next door neighbor to Larry and Mercedes Loomans on the side they want to add the garage. I have no problem with the new garage and reduced setbacks.

Thank you for your time.

Joan Beine

To whom it may concern,

I write today to share my experience with the property on E Washington Street. My family and I occupied the home before the Looman's family. We relocated to Texas last summer. A second car attached garage was something we were looking into doing before we moved. In late spring of 2014, my van was parked in the driveway. I was carrying my son and slipped while trying to get around the van and fell. It resulted in a broken elbow that required surgery. With Wisconsin winters, I do not feel it is safe for anyone to have to walk around on a daily basis from home to vehicle. There is safety and comfort knowing your loved ones will be safely able to park in a garage and walk directly into their home.

Thank you for your time.

Kristina Loggins

Mr. Loomans stated that he has an eye disease and can not drive and will possibly need a ramp in the garage. He stated that the driveway is sloped and that is a problem getting in and out of a vehicle.

Mrs. Loomans stated that a detached garage was considered, but safety would still be an issue, so an addition to the garage is the safest option. She also noted that there is a swale between the Beine property to the south and the subject property.

It was noted that the proposed garage is over 50ft. from the neighbor's home.

C. Zoning Administrator/Staff Review of Petition

Zoning Administrator Darga stated that Zoning Districts R1 and R2 are the only residential districts that have a 15ft. side yard setback. He stated that R3, R4 and R5 all have a 10ft. side yard setback and he would recommend that the setback be reduced to 10ft. from the required 15ft. for a variance of 5ft. instead of 6.4 ft. as the Looman's have requested. Zoning Administrator Darga stated that a 10ft. side yard setback would be more consistent with the other Zoning Districts within the Village.

Discussion was held on the landscaping and underground utilities on the property.

D. Public Comment Period

There were no comments.

E. Closing Statements & Close Hearing

Chairman Wolf asked Mr. & Mrs. Loomans and Zoning Administrator Darga to present their closing statements.

There were not additional comments.

V. Deliberation and Action on Petition:

A. Discussion

Board member Leis reminded the other members that circumstances of an applicant are not a factor in deciding variances, so Mr. Loomans eye condition is not a factor the Board can take into account when deciding whether to grant a variance.

Discussion was held on reducing the width of the wall in the back which would then maintain a minimum of a 10ft. side yard setback along the entire proposed new garage wall.

B. Findings of Fact

Chairman Wolf read the findings of fact that are used to make any determination on variance requests as listed in Village of Slinger Zoning Code Section 12.07.

Chairman Wolf explained that five findings need to be deliberated: Preservation of Intent, Exceptional Circumstances, Economic Hardship and Self-Imposed Hardship, Preservation of Property Rights and Absence of Detriment.

Chairman Wolf stated that in regards to preservation of intent, the variance is consistent with the purpose and intent of the regulations of the district in which the development is located. The variance does not have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

Chairman Wolf stated that in regards to exceptional circumstance, there are exceptional conditions applying to the lot that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed. Board members agreed that there are exceptional circumstances due to the steep slope in the driveway and the placement of the house when it was built.

Chairman Wolf stated that in regards to economic hardship and self-imposed hardship, there aren't any hardships for consideration in this case. It was noted that the variance is not based solely on economic gain or loss and that the hardship in this situation is not self-imposed based on the lay of the land.

Chairman Wolf stated that in regards to preservation of property rights, this variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity. It was stated that the variance would allow the house to conform to the other houses in the neighborhood which the majority have 2 car garages.

Chairman Wolf stated that in regards to absence of detriment, the variance does not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of the public interest because adding onto the existing garage to make it a 2 car garage will make the property more similar to the rest of the neighborhood.

C. Additional Conditions (if necessary): None

D. Action to Approve, Modify, or Deny the Requested Variances

Motion Knipfer/Malecha to modify the variance being requested, to allow the south side yard setback of the garage addition to the existing home at 631 E. Washington Street to be 10ft. which is a variance of 5ft. from the required 15ft. side yard setback. A roll call vote was taken on this motion with the following results: Yea's: Wolf, Leis, Malecha, Leeson, Knipfer; Nay's: none. Motion passed.

E. Notice of Appeal Rights

It was stated to the Loomans that they could proceed with a building permit yet they were informed that any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. It was noted that such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Zoning Board of Appeals.

VI. Adjourn Meeting

Motion Leis/Malecha to adjourn at 6:48 p.m. Motion passed.

Tammy Tennies, Clerk